

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE AND HAZARDOUS MATERIALS DIVISION

Summary of State Regulators Survey Responses

The State of Michigan is beginning the process of updating its regulations governing the use of ionizing radiation from radioactive material. As part of the process, we are investigating issues relevant to becoming an Agreement State. We have formed a stakeholder workgroup of current Michigan U.S. Nuclear Regulatory Commission (NRC) licensees and have held our first meeting during which many concerns were raised regarding the transition of radioactive material licensing from NRC to State control. To address these concerns, we have drafted a list of pertinent questions for the regulators in some states that have recently become Agreement States. The following are questions addressing issues raised by our stakeholders as well as pertinent topics for the State of Michigan to consider.

- I. The radioactive material programs in many non-Agreement States are paid for with General Fund money. Since surpluses in General Funds rarely exist, many recent Agreement States have asked NRC licensees to pay interim operating costs to the state in the years leading up to the assumption of NRC responsibilities.

1. How was your program funded prior to launching the Agreement program?

Mixed: some using general fund, some using NARM/X-Ray fees. PA stands out as having a very large program (NARM, x-ray, power plant fees) able to absorb the initial hiring shock.

2. How was the Agreement program funded during the time between applying for an Agreement and assumption of the NRC's responsibilities?

Only OH and WI charged their NRC licensees a fee. For both states, the fee was about ~40% of the NRC fee. MA implemented NARM licensing to supplement their general fund budget.

3. How long was the interim period?

Ranged from 1 (IL) to 11 years (PA - though not yet an agreement state, September 2006 is a fairly firm date). Both MA and PA initiated agreement process as a direct result of passage of Low Level Radioactive Waste Policy Act. PA agreement program stalled in 1998 when LLRW facility siting project was abandoned.

4. Did the Agreement process take longer than initially planned? If yes, what was the difference in the planned and actual timelines and what caused the delay?

Some. Internal conflicts and reconciliation of NRC and state regulations.

5. During the process, what worked well? What problems occurred?

Problems as noted above. Successes included strong relationships with stakeholders and coordination with NRC.

- II. Many states contemplating an Agreement with the NRC tell licensees that fees will be reduced under a state agency. During our stakeholder meeting, some licensees told us that their colleagues in some Agreement States have not seen their fees go down, and some claim the cost of maintaining a license has actually increased.

1. At the time the Agreement was finalized, did your program collect more or less money from all the licensees in aggregate? Did fees increase for some specific licenses while decreasing for others?

WI, OH, and PA less, though not uniformly so (25% - 40% in aggregate). IL 20% more than NRC in 1986.

2. At the time the Agreement was finalized, were your annual fees lower than the NRC's? How much lower?

Most say lower. Responses seemed confused between Q1 and Q2.

3. Does your program currently charge more or less than the NRC for equivalent regulated activities (i.e., all applicable costs as defined under 10 CFR 170 and 10 CFR 171)?

Less.

4. Is the program self funded (i.e., licensing revenues cover all program costs)?

Yes, except IL.

5. Did you or do you plan to change the program's current funding scheme, due to shortfalls or unexpected operating expenses?

OH has added administrative penalties (late fees) and a surcharge to cover RAM in the public domain.

6. How have licensing fees increased in your state since becoming an Agreement State?

Agreement states with longer histories have had increases over the years.

7. Are fee increases tied to some Cost of Living index in your state?

All 'No', but PA

8. Does the program charge fees that would be exempted or lower under the NRC fee rules?

Most states have eliminated the exemptions for small businesses and academic facilities.

III. Some stakeholders are worried that the level of service will be lower under a state administration than the NRC.

1. How many FTEs per 100 specific licenses do you employ? Can you break those down into technical vs. support FTEs?

2 to 3 total FTEs per 100 licensees. Approximately 1:6, support staff to professional/technical.

2. What are the minimum qualifications for the technical staff in your program? If differences in qualifications exist between the various technical staff positions (inspector or license review) please describe.

Most require B.S. Continuing training obtained through NRC.

3. What are the annual professional development requirements for technical staff in your program?

No specific requirements, generally.

4. Did you utilize NRC licensing courses? If so, were they adequate for licensing and compliance inspection purposes?

All use NRC. Some say NRC not adequate.

IV. Programmatic Issues

1. Prior to becoming an Agreement State, was the regulation of radioactive material and x-ray use managed under the same program? Are they currently managed under the same program?

Yes, both. OH notes a brief period of separation prior to agreement process.

2. Prior to becoming an Agreement State, did your program collect fees from users of naturally occurring or accelerator produced radioactive material or x-ray machines? Did the program issue licenses or was a registration process used? Did the program charge inspection fees?

All but TX collected fees. NARM/X-Ray fees did not generally cover all costs.

3. In drafting regulations that would be adequate for an Agreement, did you use a specific rules model (i.e., the Conference of Radiation Control Program Directors, Inc.'s Suggested State Regulations for the Control of Radiation or adoption of 10 CFR in total)?

Yes, some note SSRCRs obsolete or lagging 10 CFR.

4. Does your state's legislative language include a clause that limits the stringency of your radioactive material rules to that of the NRC? Do you think having a stringency restriction clause would be helpful or harmful in protecting the public?

All say No.

5. Does your state have an advisory committee for radiation control matters in the state?

WI 'No', all others 'Yes'.

6. What are the overall advantages to your state of having an Agreement with the NRC?

Emergency response, quicker turn-around for licensees, more expertise in-state.

7. What, in your opinion, are the advantages to the licensees of operating in an Agreement State?

Reduced fees, streamlined system, and better contact with the agency.

8. Other than an advisory body, if any, how does the program involve the regulated community in program or regulation changes?

Comments invited and groups formed during rules promulgation.